IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4143 OF 2005

Shri Shrirang Pandurang Vaidya & Ors. : Petitioners

(Orig.Applicants in Revn. Appln. No.16 of 2004 & Orig. Opponents in M.A.No.195/2000)

V/s.

Swami Swarupanand Seva Mandal & Ors. : Respondents

...

Mr.G.S. Godbole for the petitioners.

Mr.A.A.Kumbhakoni with Mr.A.P.Kulkarni for the respondent no.1.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for the respondent nos.6 and 7.

...

CORAM : S.A. BOBDE, J.

July 26, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The original dispute between the parties is about the

validity of 547 members who are newly enrolled just prior to the elections. An objection to that was taken by one Joshi. Certain orders have been passed and the matter came up before this Court when this Court by order dated 13.1.2001 set aside the order at exh.'I' to Writ Petition no.5486 of 2000 and remanded the matter back to the authorities for a fresh hearing and disposal, in accordance with law, after giving sufficient opportunity of hearing to the parties hereto.

3. It is the grievance of Mr.Godbole, the learned counsel for the petitioners, that the Asstt. Charity Commissioner has decided the application without issuing notice and without giving an opportunity of hearing to all the persons who have been enrolled and whose membership is sought to be cancelled. That order is under challenge.

4. Mr.Godbole, the learned counsel for the petitioners, states that he is not pressing the order in revision since that revision was not maintainable.

5. Having heard the matter for sometime, by consent, the following order is passed:-

O R D E R

The Asstt. Charity Commissioner shall hear the matter afresh and decide the issue of the validity of membership of those persons who have been enrolled by the Managing committee. In case there is any doubt as to the validity of the membership of any member who is enrolled, the Asstt. Charity Commissioner shall issue notice to such members before passing any order adverse to them. With these observations, the matter is remanded back to the Asstt. Charity Commissioner for a fresh decision on the issues, in accordance with law.

6. The rule is partly made absolute in the aforesaid terms.

S.A. BOBDE, J.